



December 8, 2020

**VIA PACER**

Hon. Eric R. Komitee  
United States District Court,  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

***Re: Timsit v. Schwartz et al.***  
***Case No. 20-cv-05446-EK-LB***

Dear Hon. Komitee:

This firm is counsel to all Defendants, Ztvi Zev Schwartz ("Zev Schwartz"), 741 Hancock, LLC, 223 Howard, LLC, 37 Covert, LLC, BSD Quincy LLC, McKarkein Investment IDF LLC, McKarkein Capital LLC, and Berkshire Abstract & Title Agency, LLC. Pursuant to Your Honor's Individual Practices and Rules I(C), we write to the Court to respectfully request a brief, one-week adjournment of the hearing for the Order to Show Cause filed on November 18, 2020 ("Order to Show Cause"), which is currently scheduled for December 11, 2020, until December 18, 2020. This would affect the briefing schedule, under which Defendants must respond by Tuesday, December 8, 2020, which we propose should be adjourned until Tuesday, December 15, 2020. This firm has not made any previous requests for adjournment of this date. Opposing counsel has not consented to this adjournment.

By way of background, this matter is a small part of a larger matter in which Robert Timsit, Plaintiff Gilbert Timsit's son, partnered with Defendant Zev Schwartz on financing, developing, and selling real properties owned by the various corporate Defendants. Plaintiff Gilbert Timsit invested the money at issue in the instant case in this business in which his son currently retains a fifty percent (50%) equity interest. Eventually, the relationship between Robert Timsit and Zev Schwartz devolved to the point of litigation, and, pursuant to the documents governing that relationship, that matter is currently being heard before a Beit Din (a rabbinical court) in Israel. Robert Timsit has repeatedly requested a temporary restraining order from the Beit Din, and has been repeatedly denied his request. Thereafter, Plaintiff Gilbert Timsit brought the current lawsuit and Order to Show Cause requesting the exact relief that is at issue before the Beit Din.

In addition to this background, there are multiple other factors that mitigate in favor of adjourning the hearing. Despite this Court issuing a signed Order to Show Cause on November 25, 2020, Plaintiff chose to serve the Order to Show Cause on Defendants via first class mail on that day. *See* Docket # 17. Plaintiff chose to effectuate service this way the day before

31 E. 32<sup>nd</sup> Street, Suite 906  
New York, NY 10016  
(201) 803-3100

Thanksgiving instead of serving the Order to Show Cause via a more expedient method, such as personal service or even overnight mail. Additionally, all Defendants are or are controlled by observant Jews whose faith requires them to observe the Sabbath and not work from Friday night through Saturday night. Plaintiff, being an observant Jew himself, ensured that Defendant would receive service, at the earliest, early last week. Furthermore, Plaintiff did eventually choose to personally serve Defendants, but only on December 2 and December 4. *See* Docket # 19 and 20. Therefore, Defendants did not receive service until approximately a week before the Order to Show Cause response was due, despite not yet having been served the underlying complaint or having retained counsel. Because of this delay, this firm was only retained today, December 8, 2020.

Lastly, despite Plaintiff's contention, none of the properties at issue are in imminent danger of being sold, including the 741 Hancock Property ("Hancock Property") referred to in Plaintiff's attorney's letter filed with this Court dated November 25, 2020. In fact, the parties in the overarching matter, Robert Timsit and Zev Schwartz, are currently deep into settlement discussions and we anticipate a resolution of that case, as well as this one, shortly.

For the reasons set forth herein, we respectfully request that this Court grant our request for a brief adjournment. We thank this Court for considering this matter.

Respectfully,

/s/ Robert J. Ontell  
Robert J. Ontell